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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170619570-7570-01]

RIN 0648-BG92

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Modifications to the Number of Unrigged Hooks Carried On Board Bottom Longline Vessels

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in an abbreviated framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico (Gulf) Fishery Management Council (Council). This proposed rule would remove the limit on the number of unrigged hooks that a commercial reef fish vessel with a bottom longline endorsement is allowed on board when using or carrying bottom longline gear in the Federal waters of the eastern Gulf. The proposed rule would not change the limit of 750 hooks that these vessels can have rigged for fishing at any

given time. The purpose of the proposed rule is to reduce the regulatory and potential economic burden to bottom longline fishers.

DATES: Written comments must be received by *[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2017-0081" by either of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0081*, click the "Comment Now!" icon, complete the required fields, and enter your attached comments.

- *Mail:* Submit all written comments to Kelli O'Donnell, NMFS Southeast Regional Office (SERO), 263 13th Avenue South, St. Petersburg, FL 33701.

- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential

business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of the abbreviated framework action, which includes an environmental assessment, Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from www.regulations.gov or the SERO Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/Unrigged%20hooks/Unrigged_hooks_index.html.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS SERO, telephone: 727-824-5305, email: Kelli.ODonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery includes the commercial bottom longline component and is managed under the FMP. The Council prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation.

In 2008, using data from Federal fishery observers, the NMFS Southeast Fisheries Science Center estimated sea turtle takes by the commercial bottom longline component of the Gulf reef fish fishery exceeded the 3-year anticipated take levels that were described in the 2005 Endangered Species Act biological opinion on the reef fish fishery. Therefore, the Council and NMFS developed management measures in Amendment 31 to the FMP to reduce sea turtle takes by the bottom longline component of the Gulf reef fish fishery (75 FR 21512; April 26, 2010). These management measures require an endorsement to the Federal commercial reef fish permit to fish for reef fish using bottom longline gear in the Gulf east of 85°30' west longitude (near Cape San Blas, FL), and a seasonal closure for bottom longline gear use in that area. In addition, vessels in that area that have the endorsement and are fishing with bottom longline gear or have bottom longline gear on board cannot possess more than 1,000 hooks total

per vessel of which no more than 750 hooks can be rigged for fishing.

Management Measures Contained in This Proposed Rule

This proposed rule would remove the current limitation on the number of unrigged hooks allowed per bottom longline vessel in the eastern Gulf EEZ, while retaining the limit of 750 hooks that can be rigged for fishing.

Since the implementation of Amendment 31, bottom longline endorsement holders using bottom longline gear in the eastern Gulf EEZ have reported increases in bottom longline hook losses due to shark bite-offs and through normal fishing effort. Therefore, vessel operators that use bottom longline gear in the eastern Gulf EEZ requested that the Council increase the number of total unrigged hooks per vessel, while still keeping in place the restriction of 750 hooks rigged to fish at any one time.

Observer data from 2010-2016 has shown the average amount of hooks lost per commercial bottom longline trip in the eastern Gulf EEZ is 300 hooks. Under the current total possession limit, if more than 250 hooks are lost, a vessel either has to fish with fewer than 750 hooks, get additional hooks from other vessels to maintain the maximum number of hooks in the water, or return to port. Based on public testimony, removing the restriction on the total

number of hooks kept on board is expected to make trips more economical by allowing fishing with the maximum number of hooks to continue without having to return to port or request additional hooks from other vessels. In addition, maintaining the current limit of 750 hooks rigged for fishing would preserve the reductions in sea turtle interactions since the implementation of Amendment 31.

Classification

Pursuant to section 304(b) (1) (A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

A description of this proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained in the preamble.

This proposed rule would directly affect commercial fishing vessels that use bottom longline gear to harvest reef fish from the Gulf EEZ east of 85°30' west longitude, east of Cape San Blas, FL. These vessels are required to have an eastern Gulf reef fish bottom longline endorsement, and as of July 6, 2017, 62 vessels have that endorsement.

NMFS estimates up to 62 commercial longline vessels could be directly affected annually, and that 36 to 37 businesses own these 62 vessels. These businesses represent approximately 6 percent of the 631 businesses that own at least one commercial fishing vessel with a Gulf reef fish permit. NMFS expects that most to all of the directly affected vessels make their landings in Florida, and from 2011 through 2015, an annual average of 59 longline vessels landed Gulf reef fish in the state and individually landed an average of 71,130 lb (32,264 kg), gutted weight, of reef fish annually. With an average 2015 dockside price of \$4.01 per lb, gutted weight, the average longline vessel had annual dockside revenue of \$285,231 from reef fish landings. That annual revenue is estimated to represent approximately 98 to 99 percent of the average longline vessel's annual revenues from all landings.

For RFA purposes, NMFS has established a small business size standard for businesses, including their

affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily involved in commercial fishing (NAICS 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. Based on the average annual dockside revenue of a longline vessel, it is expected that most to all of the businesses that would be directly affected by the proposed rule are small.

Since May 2010, within the Gulf EEZ east of 85°30' west longitude, a vessel for which a valid eastern Gulf reef fish bottom longline endorsement has been issued and that is fishing bottom longline gear or has bottom longline gear on board cannot possess more than a total of 1,000 hooks, and no more than 750 hooks can be rigged for fishing at any given time.

Industry representatives have indicated that a total of 1,000 hooks is not enough on long trips to compensate for hook losses due to sharks' biting hooks off and other general reasons. Under the current total possession limit, if more than 250 hooks are lost, a vessel either has to fish with fewer than 750 hooks or acquire additional hooks

from other vessels to maintain the maximum number of hooks in the water. A third option is for the vessel to end the trip and return to port; however, that reduces the vessel landings. Observer data indicates an average of over 250 hooks were lost per trip from 2011 through 2016; however, despite the total hook limit and the average hook loss, average landings of reef fish per longline trip increased over that time.

The proposed rule would allow a vessel with a longline endorsement to possess an unlimited number of hooks, but it would not change the maximum number that can be rigged for fishing. Any bottom longline vessel that would increase the total number of hooks it possesses beyond 1,000 would do so only if there were an economic benefit of doing so. Removing the limit on the number of unrigged hooks that can be onboard is expected to improve fishers' ability to maintain the maximum number of rigged hooks over the duration of a trip. There is insufficient information to estimate the number of vessels that may benefit from possessing more than 1,000 hooks and the magnitude of such a benefit.

NMFS expects this proposed rule would not have a significant economic impact on a substantial number of

small entities, and an initial regulatory flexibility analysis is not required and none has been prepared.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 622

Bottom longline gear, Fisheries, Fishing, Gulf of Mexico, Reef fish.

Dated: October 24, 2017

Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.35, revise the first sentence of paragraph (b) (3) to read as follows:

§ 622.35 Gear restricted areas.

* * * * *

(b) * * *

(3) Within the Gulf EEZ east of 85°30' W. long., a vessel for which a valid eastern Gulf reef fish bottom longline endorsement has been issued that is fishing bottom longline gear or has bottom longline gear on board cannot possess more than 750 hooks rigged for fishing at any given time. * * *

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